

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 98-652-C - ORDER NO. 1999-370
JUNE 23, 1999

| | | |
|--|---|-------------|
| IN RE: Application of FirstWorld Communications, Inc. for a Certificate of Public Convenience and Necessity to Provide Interexchange Telecommunications Services and for Alternative Regulatory Treatment. |) | ORDER |
| |) | GRANTING |
| |) | CERTIFICATE |
| |) | |
| |) | |

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of FirstWorld Communications, Inc. ("FirstWorld" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications services within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1998) and the general regulatory authority of the Commission. By its Application, FirstWorld also requested alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and requested waiver of certain Commission regulations.

The Commission's Executive Director instructed FirstWorld to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of FirstWorld and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. FirstWorld complied with this instruction

and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

A hearing was convened on May 4, 1999, at 11:00 a.m. in the Commission's Hearing Room, Columbia, South Carolina. The Honorable Philip T. Bradley, Chairman, presided. FirstWorld was represented by John J. Pringle, Jr., Esquire. Florence P. Belser, Staff Counsel, represented the Commission Staff.

JoAnne Hill, Tariff Manager for FirstWorld, appeared and testified in support of the Application. The record reveals that FirstWorld is a Delaware corporation which is registered to transact business in South Carolina as a foreign corporation. According to Ms. Hill, FirstWorld proposes to provide intrastate long distance service in conjunction with interstate long distance service. FirstWorld's services include message toll service on a switched or dedicated basis, inbound toll-free service on a switched or dedicated basis, travel card services, debit card services,¹ and operator services to its customers over the resold facilities of other certified carriers. Ms. Hill explained the Company's request for authority, and the record reveals the Company's services, operations, and marketing procedures.

Ms. Hill also discussed FirstWorld's technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Finally, Ms. Hill testified that FirstWorld will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

¹ Ms. Hill also testified that FirstWorld has no plans to offer its debit card services in South Carolina at this time. But Ms. Hill also stated that FirstWorld is aware of and will comply with the Commission's bond requirement should FirstWorld offer its debit card services in South Carolina.

Ms. Hill also offered that approval of FirstWorld's application would serve the public interest by increasing the level of long distance competition in South Carolina, by providing a high-quality alternative of long distance service, and by increasing consumer awareness of alternatives and innovative services.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. FirstWorld is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. FirstWorld operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.
3. FirstWorld has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to FirstWorld to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or

any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for FirstWorld for its resale of residential services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. FirstWorld shall not adjust its residential rates below the approved maximum level without notice to the Commission and to the public. FirstWorld shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1998).

4. With respect to FirstWorld's business service offerings including credit card services, operator services, and customer network offerings, the Commission adopts a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to FirstWorld also.

5. If it has not already done so by the date of issuance of this Order, FirstWorld shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. FirstWorld is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

7. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. FirstWorld shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If FirstWorld changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, FirstWorld shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

10. FirstWorld shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. FirstWorld shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

12. As FirstWorld proposes to provide operator services in aggregator locations, FirstWorld shall comply with the following conditions:

- (a) For intrastate 0+ operator assisted and calling card calls originating from pay telephones outside confinement facilities and at aggregator locations, FirstWorld may not impose operator service charges greater than the intrastate charges then currently approved for AT&T. For the usage portion of the call, FirstWorld may not charge more on interLATA calls than the intrastate interLATA rates charged by AT&T Communications for interLATA calls or on intraLATA calls than the intraLATA rates charged by BellSouth Telecommunications for intraLATA calls.
- (b) FirstWorld is allowed to incorporate in its tariff a surcharge (property imposed fee) on operator-assisted and calling card calls not to exceed \$1.00 for calls originating from payphone (excluding pay telephones associated with inmate calling service) and from aggregator locations, only if the property owner has not added a surcharge already. That is, FirstWorld may not impose an additional surcharge to calls originating from pay telephones and from aggregator locations if a property owner has already imposed such a surcharge. If such a surcharge is applied by FirstWorld on behalf of the property owner, FirstWorld is directed to pay the surcharge in its entirety to the property owner. Further, if the surcharge is applied, the end user should be notified of the imposition of the surcharge. This notification should be

included in the information pieces identifying FirstWorld as the operator service provider at that location.

(c) FirstWorld is required to provide information pieces to pay telephone service providers or property owners identifying FirstWorld as the provider of the operator service for authorized calls originating from the location. FirstWorld is required to brand all calls identifying itself as the carrier. The information pieces shall be consistent with the format approved by the Commission in Order No. 93-811, issued in Docket No. 92-557-C.

(d) Regarding the provision of operator services, FirstWorld shall comply with the Operator Service Provider Guidelines approved in Order No. 93-534, issued in Docket No. 93-026-C.

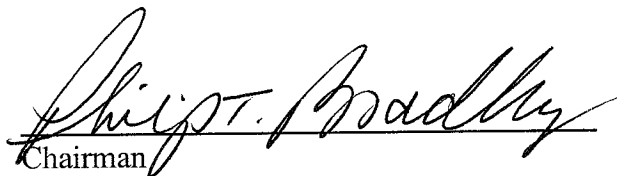
13. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

14. By its Application, FirstWorld requests a waiver of 26 S.C. Code Ann.Reg. 103-610 (1976) governing the location of records and reports. 26 S.C. Code Ann.Reg. 103-610 (1976) provides that “[a]ll records required by these rules or necessary for the administration thereof, shall be kept within the State, unless otherwise authorized by the Commission ...” The Commission recognizes that the Applicant’s principal address is in California and therefore understands the burden and difficulty FirstWorld would realize unless a waiver of 26 S.C. Code Ann.Reg. 103-610(1976) is granted. Therefore for good cause shown, the Commission finds that the public interest requires that a waiver of 26 S.C. Code Ann.Reg. 103-610(1976) be granted to

FirstWorld, and therefore FirstWorld will not be required to keep its books and records within the State of South Carolina. However, 26 S.C. Code Ann.Reg. 103-610(1976) also provides that “these records shall be available for examination by the Commission or its authorized representatives at all reasonable times.” The second part of the regulation is not waived, and First World shall keep its books and records available for examination by the Commission or the Commission’s authorized representatives.

15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

DOCKET NO. 98-652-C - ORDER NO. 1999-370
JUNE 23, 1999
ATTACHMENT A

**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S**

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

DOCKET NO. 98-652-C - ORDER NO. 1999-370
JUNE 23, 1999
ATTACHMENT B

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by Signature

If you have any questions, contact the Consumer Services Department at 803-896-5230